



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0169; FRL-9914-69-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Pennsylvania; Allegheny County; Control of Outdoor Wood-Fired Boilers**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a submission by the Commonwealth of Pennsylvania for two State Implementation Plan (SIP) revisions in accordance with the requirements of the Clean Air Act (CAA). These revisions pertain to the control of particulate matter (PM) emissions from the operation of outdoor wood-fired boilers (OWBs) in Allegheny County.

DATES: Written comments must be received on or before [insert date 30 days from date of publication].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0169 by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: fernandez.cristina@epa.gov.
- C. Mail: EPA-R03-OAR-2014-0169, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only

accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2014-0169. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or

in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814-5787, or by e-mail at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION: On January 15, 2014, the Pennsylvania Department of Environmental Protection (PADEP) submitted two SIP revisions to the Allegheny County portion of the Pennsylvania SIP for the control of PM emissions from the operation of OWBs.

I. Background

OWBs are free-standing fuel burning devices designed (1) to burn clean wood or other approved solid fuels, (2) specifically for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals, such as garages and, (3) to heat building space or water by means of distribution, typically through pipes, of a fluid heated in the device, typically water, or a water and antifreeze mixture.

A concern associated with certain OWBs is the air pollution they may produce. Smoldering fires and short smokestacks may create heavy smoke which falls to the ground and sometimes causes a neighborhood nuisance or an adverse impact on public health and the environment. Unlike indoor wood stoves, which are regulated by EPA, OWBs are not currently required to meet a Federal emission standard, and the majority of them are not equipped with pollution controls. To

improve air quality, EPA initiated a voluntary program that encourages manufacturers of OWBs to develop and distribute cleaner-burning, more efficient OWBs. Through this voluntary effort, OWBs are certified and labeled to meet EPA performance levels. Additional information about the EPA voluntary OWB program is available on EPA's website at www.epa.gov/burnwise.

Furthermore, the Northeast States for Coordinated Air Use Management (NESCAUM), a regional air pollution control organization comprised of the air program directors of several states, developed a model regulation for regulating OWBs in coordination with a number of states and EPA. The purpose of the model regulation is to assist state and local agencies in adopting requirements that will reduce air pollution from OWBs. The model regulation establishes emission limits and labeling requirements for new OWBs and contains the following components for both new and existing OWBs: Stack height requirements, distributor and buyer notification requirements, and setback requirements from property lines, structures, and homes.

On May 2, 2012, the Allegheny County Health Department (ACHD) proposed two regulations, with a number of "health enhancing" changes, to be submitted to EPA for approval into the Allegheny County portion of the Pennsylvania SIP. These proposed regulations were based on Chapters 123.14 (Outdoor Wood-Fired Boilers) and 121.1 (Definitions) of Title 25 of the Pennsylvania Code (Pa. Code) as issued in Pa. Bulletin 5571 on October 2, 2010. The proposed regulations were approved and subsequently became effective on June 8, 2013. On January 15, 2014, PADEP submitted the regulations as revisions to EPA for approval to the Allegheny County portion of the Pennsylvania SIP.

II. Summary of SIP Revision

The SIP revisions consist of (1) adding Section 2104.09 (Outdoor Wood-Fired Boiler) to Article

XXI, “Air Pollution Control Rules and Regulations” and (2) adding new related definitions to Section 2101.20 (Definitions) of Article XXI.

The first SIP revision adds Section 2104.09 which is based upon the PADEP regulations, with the exception of minor “health enhancing” changes, contained in 25 Pa. Code 123.14 (Outdoor Wood-Fired Boilers). The minor changes include: Increased setbacks, additional stack height criteria, use restrictions, and the addition of reporting requirements. These minor changes are required in order to tailor the OWB regulations to the specific situations in Allegheny County.

The second SIP revision adds certain related definitions of 25 Pa. Code Chapter 121.1 (Definitions) to Section 2101.20 of Article XXI. A detailed summary of EPA’s review and rationale for approving Pennsylvania’s submittal may be found in the Technical Support Document (TSD) for this proposed rulemaking action, which is available online at www.regulations.gov, Docket number EPA-R03-OAR-2014-0169.

III. Proposed Action

EPA is proposing to approve the Pennsylvania SIP revisions consisting of (1) the addition of Section 2104.09 (Outdoor Wood-Fired Boilers) of Article XXI, “Air Pollution Control Rules and Regulations” and (2) the addition of related new definitions to Section 2101.20. These revisions are being made for the control of OWBs, and were submitted to EPA for approval on January 15, 2014. EPA’s review of this material indicates that the SIP revisions will reduce the problems associated with the operation of OWBs, including smoke, odors and burning prohibited fuels, including garbage, tires, and hazardous waste. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule pertaining to the ACHD's control of PM emissions from OWBs, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: July 16, 2014.

William C. Early, Acting
Regional Administrator,
Region III.

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